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11/13/04
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Strat (152)
PATENT APPLICATION
12/9/04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 2803.11US02

Elliott, et al.

Confirmation No.: 5705

Application No.: 10/010,968

Examiner: Gilbert, S.G.

Filed: November 13, 2001

Group Art Unit: 3736

For: AUTOMATED IMPLANTATION SYSTEM FOR RADIOISOTOPE SEEDS

RESPONSE TO LICENSING AND REVIEW

Attn: Licensing & Review
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
NOV 16 2004
LICENSING & REVIEW

Sir:

In response to the notice from Licensing and Review mailed October 14, 2004, Applicants hereby submit the required Declaration of Inventors as provided by 35 U.S.C. 25.

Applicants respectfully request the application be allowed to issue in due course.

Respectfully submitted,



Brad Pedersen
Registration No. 32,432

Customer No. 24113
Patterson, Thunte, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5774

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

November 10, 2004
Date of Deposit


Brad Pedersen

PATENT APPLICATION

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DECLARATION OF INVENTORS

Attn: Licensing & Review
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

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LICENSING & REVIEW

We declare:

1. We made and conceived the invention described and claimed in U.S. Patent Application No. 10/010,968, filed in the United States of America on November 13, 2001, entitled, "AUTOMATED IMPLANTATION SYSTEM FOR RADIOISOTOPE SEEDS."

2. At the time the invention was made and conceived, we were inventors employed by South Bay Medical, LLC, which was subsequently acquired by Mentor Corporation.

3. That the invention is related to the work we were employed to perform and was made within the scope of our employment duties.

4. That the invention was made during working hours and with the use of facilities, equipment, materials, funds, information.

Application No. 10/010,968

5. That to the best of our knowledge and belief: The invention or discovery was not made or conceived in the course of, or in connection with, or under the terms of any contract, subcontract or arrangement entered into with or for the benefit of the United States Atomic Energy Commission or its successors Energy Research and Development Administration or the Department of Energy.

6. The undersigned inventors declare further that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 11-5-04

Daniel M. Elliott
6200 Sierra Circle
Shorewood, Minnesota 55331

Dated: 11-5-04

John J. Berkey
2745 Louisiana Avenue
St. Louis Park, MN 55426

COPY



UNITED STATES DEPARTMENT OF COMMERCE Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
10/010,968	11/13/2001	Daniel M. Elliott	2803.11US02

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

RECEIVED

OCT 18 2004

PATTERSON, THUENTE, SKAAR
& CHRISTENSEN, P.A.

EXAMINER
AR PATENT & TRADEMARK OFFICE
MAILED

DATE MAILED: OCT 14 2004

This application has been reported by the Examiner as in condition for allowance.

LICENSING & REVIEW

The subject matter of this application appears to be "useful in the production or utilization of special nuclear material or atomic energy" as recited in Section 152 of the Atomic Energy Act of 1954 (Public Law 703, 83rd Congress, 2nd Session, AS AMENDED September 6, 1961 by Public Law 87-206, 87th Congress, 42 U.S.C. 2182). Accordingly, it would appear that no patent can issue on this application until there is filed by the applicant(s), a statement under oath, or in lieu thereof, a declaration (as provided by 35 U.S.C. 25), setting forth the full facts surrounding the making and conception of the invention and whether it was made or conceived in the course of or under any contract, subcontract, or arrangement entered into WITH OR FOR THE BENEFIT OF the Atomic Energy Commission, the Energy Research and Development Administration (Public Law 93-438, 93rd Congress, 42 U.S.C. 5801) or the Department of Energy (Public Law 95-91, 95th Congress, 42 U.S.C. 7101) as required in said section of the Atomic Energy Act.

In the event 35 U.S.C. 202 has been made applicable by express provision in any contract, grant or cooperative agreement with the Department of Energy which may have a relationship to the subject matter of this application, applicant may file a statement under oath, or in lieu thereof a declaration (as provided by 35 U.S.C. 25), to the effect that 35 U.S.C. 202 is applicable, as an alternative to the statement required above. A false statement regarding this applicability of 35 U.S.C. 202 shall be considered a false representation of a material fact which may result in a request for transfer of title to the patent, which issues on this application, to the Department of Energy pursuant to Section 152 of the Atomic Energy Act.

It is considered appropriate for a statement to be filed at this time without formal requirement and this letter has been sent in order to give applicant(s) an opportunity to do so.

Should it be necessary to consider the need for a formal requirement for the statement, no provision is found in the Atomic Energy Act for extension of the time limit of 30 days after requirement is made, set by Section 152.

This application will be reached for processing in about FORTY-FIVE DAYS. Final disposition thereof will be expedited if an appropriate statement is filed during this period.

Respectfully,


SPECIAL LAWS
ADMINISTRATION GROUP

PLEASE DIRECT ALL COMMUNICATIONS RELATING TO THIS MATTER TO THE ATTENTION OF LICENSING AND REVIEW.

Li. & Bw. response 11-13-04 PJ